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U. S. DEPARTMENT OF AGRICULTURE

WAR FOOD ADMINISTRATION

[WFO 108]

PART 1405—FRUITS AND VEGETABLES

BARTLETT PEARS GROWN IN CERTAIN DISTRICTS OF CALIFORNIA

The fulfillment of requirements for the defense of the United States will result in a shortage in the supply of Bartlett pears for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1405.45 *Restrictions relative to the shipment of pears*—(a) *Definitions.* (1) "Bartlett pears" means any and all strains of Bartlett pears grown in any district described in (a) (5) hereof.

(2) "Person" means any individual, partnership, association, corporation, business trust, or any organized group of persons whether incorporated or not.

(3) "Ship" means to ship by common carrier or private carrier, from a point within the district of production to a point outside thereof, Bartlett pears for sale for fresh consumption.

(4) "Shipper" means any person who ships Bartlett pears for his account or for the account of another person.

(5) "District" means any one of the following described geographical areas within the State of California:

(i) "Central Sacramento Valley District" includes and consists of Sutter County, Butte County, and Yuba County.

(ii) "Sacramento River District" includes and consists of Sacramento County, that portion of Yolo County east and south of a straight line from the northwest corner of Sacramento County to the northeast corner of Solano County, and that portion of Solano County east of a straight line from the northeast corner of Solano County to the town of Rio Vista.

(iii) "Solano District" includes and consists of that portion of Yolo County not included in the Sacramento River District, and that portion of Solano County not included in the Sacramento River District.

(iv) "Contra Costa District" includes and consists of Contra Costa County.

(v) "Santa Clara District" includes and consists of Alameda County, Monterey County, Santa Clara County, San Mateo County, Santa Cruz County, and San Benito County.

(vi) "North Coast District" includes and consists of Mendocino County, Humboldt County, Trinity County, and Del Norte County.

(vii) "North Bay District" includes and consists of Sonoma County, Napa County, and Marin County.

(6) "Director" means the Director of Distribution, War Food Administration.

(7) "Canned Bartlett pears" means Bartlett pears which have been packed in any form, either separately or in combination with other fruits, for commercial purposes in hermetically sealed metal or glass containers and sterilized in the containers by the use of heat.

(8) "Canner" means any person who produces canned Bartlett pears.

(9) "Season" means the period from April 1 of any year through March 31 of the succeeding year.

(b) *Restrictions.* (1) No shipper may, during the season beginning April 1, 1944, except as otherwise provided herein, ship any Bartlett pears produced in any district in excess of 100 percent of the quantity of such pears, produced in the same district, shipped by such shipper during the season beginning April 1, 1942: *Provided,* That the Director may, from time to time, increase the aforesaid percent. Any person who has shipped Bartlett pears in excess of the quantity herein prescribed, prior to the effective date hereof, shall not, however, be deemed to have violated the provisions of this order.

(2) The Director may authorize any person to ship any Bartlett pears in addition to the Bartlett pears which he may ship pursuant to (b) (1) or (b) (3) hereof, if (i) the Bartlett pears are not suitable for canning, (ii) no suitable market exists for the Bartlett pears in the canning outlet by such date as the Director shall determine and announce with respect to each district, or (iii) such shipment should, for any other reason the Director may deem necessary, be made in order to effectuate the purposes of this order.

(3) The Director may, notwithstanding any other provision hereof, if he deems that such will tend to effectuate the purposes of this order, issue general authorizations from time to time permitting the shipment of any or all grades or sizes of Bartlett pears, produced in specified areas, or certain quantities thereof which may be shipped.

(4) The restrictions hereunder shall be complied with by each person affected by this order without regard to the rights of creditors, existing contracts, or payments made.

(5) The Director may require any shipper to have any lot of Bartlett pears inspected by an authorized representative of the Federal-State inspection service prior to the shipment of such pears; and the shipper shall submit promptly to the Fruit and Vegetable Branch, 220 Federal Building, P. O. Box #230, Sacramento, California, a Federal-State shipping point inspection certificate, covering each such lot or shipment of Bartlett pears, stating the grade and the size of the pears contained in such lot or shipment.

(c) *Audits and inspection.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises, or stocks of fresh or canned Bartlett pears of any person, and to make such investigations, as may be necessary or appropriate in the Director's discretion, to the enforcement or administration of the provisions of this order.

(d) *Records and reports.* Each canner shall report to the Fruit and Vegetable Branch, Office of Distribution, War Food Administration, Room 220 Federal Building, P. O. Box 230, Sacramento, California, within 48 hours after the effective date of this order and every 48 hours thereafter, with respect to each district, the cumulative quantity of Bartlett pears produced in the district which he has contracted to purchase for canning plus the quantity of Bartlett pears produced in the district which he will use to produce canned Bartlett pears but which will not be covered by purchase contracts. Whenever a canner has procured by purchase or otherwise his total canning supplies of Bartlett pears in any district he is not required to file additional reports for that district after he has submitted a complete report for the season for that district. The Director shall be entitled to obtain such other information from, and require such other reports and the keeping of such records by, any person, as may be necessary or appropriate, in the Director's discretion, to the enforcement or administration of the provisions of this order.

(e) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him may apply in writing for relief to the Director, setting forth in such petition all pertinent facts and the nature of the relief sought. The Director may thereupon take such action as he deems appropriate, which action shall be final.

(f) *Violations.* Any person who violates any provision of this order may, in accordance with the applicable procedure, be prohibited from receiving, making any deliveries of, or using the material subject to priority or allocation control pursuant to this order. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability

or duty created by, or to enjoin any violation of, any provision of this order.

(g) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order.

(h) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, except as provided herein, or unless instructions to the contrary are issued by the Director, be addressed to the Director of Distribution, War Food Administration, Washington 25, D. C., Ref. WFO 108.

(i) *Effective date.* This order shall become effective at 12:01 a. m., p. w. t., July 19, 1944.

NOTE: All reporting and record-keeping requirements of this order have been approved by, and subsequent reporting and record-keeping requirements will be subject to the approval of, Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 15th day of July 1944.

GROVER B. HILL,
First Assistant War Food Administrator.

War Food Administration,
Summary to WFO 108.

SHIPMENT OF CALIFORNIA BARTLETT PEARS RESTRICTED

To assure California canners sufficient supplies of Bartlett pears this year to enable them to meet requirements of governmental agencies, the War Food Administration today announced it has restricted the shipment of that fruit from certain producing areas in California to the quantity that was shipped during the 1942 season.

This action, contained in War Food Order 108, effective July 19, covering the districts in California of central Sacramento Valley, Sacramento River, Solano, Contra Costa, Santa Clara, North Coast and North Bay, was taken to divert Bartlett pears from fresh market channels to canning outlets. The restrictions of the order apply to shipment from any point within a specified district to any point without thereof and limit the quantity which any shipper may ship to 100 percent of the quantity which he shipped in 1942.

About 90,000 tons of raw fruit will be required by California canners this year to enable canners in that state to produce the quantity of canned pears and fruit cocktail which they are required to meet governmental needs. Without a diversion of Bartlett pears from fresh markets, a quantity substantially less than 90,000 tons would be available in California to canners, WFA estimated.

A similar order was in effect during 1943 for both California and the Northwest. In view of an estimated heavy production of Bartlett pears in the Northwest this season the crop in that area has not been placed under restrictions of the present order. Plans are being made by WFA to permit canners to ship from the Northwest for canning in California any surplus of Bartlett Pears which may result from the anticipated heavy production in that area.

The production of Bartlett pears in California this year as of June 1, was estimated at about 6,751,000 bushels or 160,700 tons, compared with 11,293,000 bushels, or 269,000 tons in 1943, and a 10-year average, 1933–42, of 8,392,000 bushels or 200,000 tons.

Any Bartlett pears for which a suitable market in the canning outlet does not develop or any Bartlett pears which canners may not need to meet their set-aside quotas, may be released to the fresh market by the Director of Distribution, WFA. California pears for shipment to eastern markets must be harvested about 10 days earlier than if they are to be canned, WFA pointed out. Because releases to permit eastern shipment must be granted in ample time, a date will be set and announced in California for each district and any Bartlett pears for which a suitable market in the canning outlet has not developed by that date may be released for shipment for fresh consumption.

Within 48 hours after the order becomes effective and every 48 hours thereafter while he is purchasing Bartlett pears or producing canned Bartlett pears, each canner must, with respect to each district, report to the Fruit and Vegetable Branch, Office of Distribution, WFA, Room 220, Federal Building, P. O. Box # 230, Sacramento, California. The quantity of Bartlett pears which he has contracted to buy for canning plus the quantity not covered by purchase contracts which he will use for canning must be included in the report.

Bartlett pears produced in the seven specified districts in California are covered by the order but there are no restrictions on four other districts in California which normally supply 60 percent of the Bartlett pears shipped fresh from the State. Production in these four districts this season is substantially less than in 1942, thus, these districts will be unable to ship a quantity of pears equal to their 1942 shipments.

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[WFO 108, Termination]

PART 1405—FRUITS AND VEGETABLES

BARTLETT PEARS GROWN IN CERTAIN DISTRICTS OF CALIFORNIA

War Food Order No. 108 (9 F.R. 8001) is hereby revoked and terminated as of 12:01 a. m., e. w. t., December 27, 1944.

With respect to violations, rights accrued, liabilities incurred, or appeals taken under said War Food Order No. 108, prior to the effective time hereof, all provisions of said order in effect prior to the effective time hereof shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with regard to any such violation, right, liability, or appeal.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 22d day of December 1944.

ASHLEY SELLERS,
Assistant War Food Administrator.

War Food Administration,
Summary to WFO–108, Termination.

The War Food Administration has revoked War Food Order No. 108 which was issued July 15, 1944 to restrict the 1944 movement of Bartlett pears from certain producing areas in California. Under the order, the movement was restricted to the quantity shipped during the 1942 marketing season to assure California canners sufficient supplies of pears to meet Government requirements. The revocation is effective December 27, 1944, and brings to a total of 64 the number of War Food Orders terminated.

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